



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,161	08/27/2003	Matthew L. Alesse	ETHP:101US	4799
7590 11/15/2005			EXAMINER	
Howard M. Elis SIMPSON & SIMPSON, PLLC 5555 Main Street Williamsville, NY 14221			NASSER, ROBERT L	
			ART UNIT	PAPER NUMBER
			3736	

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/649,161

Applicant(s)

ALESSE, MATTHEW L.

Examiner

Robert L. Nasser

Art Unit

3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8-16, and 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slaughterbeck 4548249 in view of Terminella et al 5400565.

Slaughterbeck shows an enclosure for a blood pressure cuff including a pouch 10 having an opening 30 therein to hold the cuff, and a zip-loc fastener 40 and 42, where the fastener has a flange on each side, each flange supporting a portion of the zip loc fastener connected to close the opening. Slaughterbeck does not teach the thickness of the fastener. Terminella teaches that 3.5 mils is a known thickness for a zip loc fastener (see column 4, lines 55-58). It would have been obvious to modify Slaughterbeck to use the thickness disclosed in Terminella the fastener, as it is a thickness that is known to serve the purpose of the device of Slaughterbeck. In the figures, the flange and the body have the same thickness. As such, the fastener is being sufficiently thin so as not to curl when the closure is wrapped upon itself. The fastener has a first rib received in a first channel to form the zip-loc fastener. With respect to claim 4, the thickness disclosed is about 3.5 mils. The examiner notes that given manufacturing tolerances and such, about 3.5 mils falls within the 4-8 mil range. With respect to claim 5, Slaughterbeck teaches that other types of fasteners may be used (see column 4, lines 20-25). The examiner takes official notice that a zipper is a

well-known fastener for the same type of closure. Hence, it would have been obvious to use a zipper, as it is merely the substitution of one known equivalent fastener for another. Claims 8 and 9 are rejected in that the fastener is near the opening and has the structure recited in claim 9. With respect to claim 10, the envelope is translucent. The device further has hook and loop patches to secure the enclosure 10 around the body. Claims 19-23 lack novelty in that Slaughterbeck further teaches the method, noting that it teaches using 2 pouches 10 for two patients (see column 4, lines 17-19).

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Slaughterbeck in view of Terminella, as applied to claims 1-6, 8-16, 19-23 above, further in view of Corrales. With respect to claim 7, Corrales shows a protective sheet used with a blood pressure cuff, where one is fluid impervious and the second side fibrous and soft,, for patient comfort. Hence, it would have been obvious to modify Slaughterbeck to have such a second side, to enhance comfort.

Claims 17, 18, 24, and 25 are rejected under 35 USC 103(a) as being unpatentable over Slaughterbeck in view Terminella et al, as applied to claims 1-6, 8-16 and 19-23 above, further in view of Brackett 5,904,655. Brackett teaches a labeling area to distinguish one enclosure from another (see column 4, lines 19-24). Hence, it would have been obvious to provide such an area on the device of Slaughterbeck, to prevent cross contamination of patients.

Applicant's arguments filed 8/25/2005 have been fully considered but they are deemed moot in view of the new grounds of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert L. Nasser whose telephone number is (571) 272-4731. The examiner can normally be reached on Mon-Fri, variable hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RLN
November 13, 2005

Robert L. Nasser
Primary Examiner
Art Unit 3736



ROBERT L. NASSER
PRIMARY EXAMINER